

1 JAMES M. WAGSTAFFE (95535)
IVO LABAR (203492)
2 **KERR & WAGSTAFFE LLP**
100 Spear Street, Suite 1800
3 San Francisco, CA 94105-1528
Telephone: (415) 371-8500
4 Fax: (415) 371-0500

5 Attorneys for Defendant
VICTOR CONTE
6
7

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 SHANE D. MOSLEY, SR.,

Case No. C 08-01777 JSW

11 Plaintiff,

**JOINT STATEMENT RE: EXISTENCE
OF DIVERSITY SUBJECT MATTER
JURISDICTION**

12 vs.

13 VICTOR CONTE,

HON. JEFFREY S. WHITE

14 Defendant.
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 In compliance with the Court's May 30, 2008 Order, the parties submit this joint
 2 statement regarding the existence of diversity subject matter jurisdiction pursuant to 28 U.S.C.
 3 section 1332.

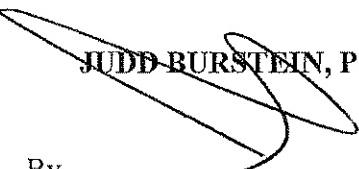
4 **A. PLAINTIFF'S POSITION**

5 Plaintiff contends that subject matter jurisdiction exists in this case pursuant to 28 U.S.C.
 6 § 1332 as Plaintiff is domiciled in the State of Nevada and Defendant, upon information and
 7 belief, is domiciled in the State of California.

8 **B. DEFENDANT'S POSITION**

9 Defendant believes that, in light of Plaintiff's ownership of California-based assets and
 10 other evidence indicating California domicile, there is a substantial question regarding Plaintiff's
 11 domiciliary intent. Defendant has set Plaintiff's deposition for June 25, 2008 and propounded a
 12 Rule 34 request for inspection for documents related to Plaintiff's domicile. Following the
 13 completion of this discovery, Defendant will determine whether a motion to dismiss for lack of
 14 subject matter jurisdiction lies.

15
 16 DATED: June 10, 2008

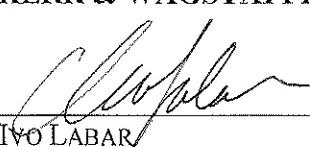

 JUDD BURSTEIN, P.C.

17
 18 By _____
 JUDD BURSTEIN

19
 20 Attorneys for Plaintiff
 Shane D. Mosley, Sr.

21
 22 DATED: June 10, 2008

KERR & WAGSTAFFE LLP

23
 24 By 
 IVO LABAR

25
 26 Attorneys for Defendant
 Victor Conte